

5. Venue is proper in the Southern District of Texas because a substantial portion of the events forming the basis of this suit occurred in this District.

III. PARTIES AND PERSONAL JURISDICTION

6. Plaintiff, Gregorio Lopez, is an individual residing in Harris County, Texas. Mr. Lopez's written consent to this action is attached as Exhibit "A."

7. The Class Members are all of Defendants' employees working at one or more of Defendants' restaurants in a variety of positions, including, but not limited to, cooks, busboys, dish washers, kitchen staff, valet drivers, hosts, and other employees, from April 11, 2002 to the present.

8. Defendant Cordua Restaurants, L.P. is Texas limited partnership that does business under various names including, Churrascos, Americas, Amazon Grill, Artista and Cordua Catering. This Defendant may be served by serving its registered agent, Michael Cordua, at his registered address, 1800 Post Oak Blvd., Ste. 200, Houston, TX 77056.

9. Defendant Rico, Inc. is a Texas Corporation doing business at 2055 Westheimer, #180, Houston, Texas 77098. Upon information and belief, Rico, Inc. was merged into Cordua Restaurants, L.P. on or about December 29, 2000. This Defendant may be served by serving its registered agent, Edward E. Harline, Brown McCarrol, L.L.P., 1111 Bagby Street, Suite 4700, Houston, Texas 77002.

10. Defendant Rica, Inc. is a Texas Corporation doing business at 2727 Allen Parkway, #1000, Houston, Texas 77019. Upon information and belief, Rica, Inc. was merged into Cordua Restaurants, L.P. This Defendant may be served by serving its registered agent, Business Filings, Inc., 2727 Allen Parkway, #1000, Houston, Texas 77019.

IV. COVERAGE

11. At all material times, Defendants have been employers within the meaning of 3(d) of the FLSA. 29 U.S.C. § 203(d).

12. At all material times, Defendants have been enterprises within the meaning of 3(r) of the FLSA. 29 U.S.C. § 203(r).

13. At all material times, Defendants have been an enterprise in commerce or in the production of goods for commerce within the meaning of 3(s)(1) of the FLSA because it has had employees engaged in commerce. 29 U.S.C. § 203(s)(1). Further, Defendants have had, and continue to have, an annual gross income of sales made or business done of not less than \$500,000.

14. At all material times, Plaintiffs were individual employees who were engaged in commerce or in the production of goods for commerce as required by 29 USC § 206-207.

V. FACTS

15. Cordua Restaurants, L.P. does business under and operates various Houston restaurants including, Churrascos (River Oaks) located at 2055 Westheimer Road, Churrascos (Westchase) located at 9705 Westheimer Road, Americas located 1800 Post Oak Blvd., Amazon Grill (Kirby) located at 5114 Kirby Dr., Amazon Grill (Westchase) located at 9600 Westheimer, Artista located at 800 Bagby and Cordua Catering located at 800 Bagby. Cordua Restaurants, L.P. employs workers at these restaurants in various positions including, but not limited to, cooks, busboys, dishwashers, kitchen staff, valet drivers, hosts, and other employees. Cordua Restaurants, L.P. employs approximately 450 people. Although employees were required to and in fact did frequently work more than 40 hours per week, they were not compensated at the FLSA mandated time-and-a-half rate for hours in excess of 40. Defendants' method of paying Plaintiff and Class Members in violation of the FLSA was willful and was not based on a good faith and reasonable belief that its conduct did not violate the FLSA. Upon information and belief, Rica, Inc. and Rico, Inc. had merged into Cordua Restaurants, L.P. at all times relevant to this lawsuit.

VI. CLASS ACTION ALLEGATIONS

16. Mr. Lopez has actual knowledge that Class Members have also been denied overtime pay for hours worked over forty in a week.

17. Although Defendants permit and/or require the Class Members to work in excess of forty hours per week, Defendants have denied them full compensation for their hours worked over forty.

18. The Class Members perform or have performed the same or similar work.

19. In addition, Class Members regularly work or have worked in excess of forty hours during a workweek.

20. Class Members are not exempt from overtime.

21. As such, Class Members are similar to Mr. Lopez in terms of work similarities, pay structure and the denial of overtime.

22. Defendants' failure to pay minimum wage and overtime compensation at the rates required by the FLSA results from generally applicable policies or practices and does not depend on the personal circumstances of the Class Members.

23. Mr. Lopez's experience is typical of the experience of the Class Members.

24. The specific job titles or precise job responsibilities of each Class Member do not prevent collective treatment.

25. All Class Members, irrespective of their particular job requirements, are entitled to be compensated at a minimum wage and are entitled to overtime compensation for hours worked in excess of forty during a workweek.

26. Although the issue of damages may be individual in character, there remains a common nucleus of liability facts.

27. As such, the class of similarly situated plaintiffs is properly defined as follows:

The Class Members are all of Defendants' employees working at one or more of its restaurants including, but not limited to, cooks,

busboys, dishwashers, kitchen staff, valet drivers, hosts, waiters and other service employees from April 11, 2002 to the present.

VII. PLAINTIFF'S OVERTIME WAGE CLAIM

28. Plaintiff incorporates all allegations contained in the foregoing paragraphs.

29. Defendants' practice of failing to pay Plaintiff for all hours violates the FLSA. 29 U.S.C. § 207.

30. None of the exemptions provided by the FLSA regulating the duty of employers to pay overtime at a rate not less than one and one-half times the regular rate at which its employees are employed are applicable to the Defendants or the Plaintiff.

VIII. DAMAGES SOUGHT

31. Plaintiff is entitled to recover their unpaid regular wages and overtime compensation.

32. Plaintiff is entitled to an amount equal to all of their unpaid and overtime wages as liquidated damages. 29 USC § 216(b).

33. Plaintiff is entitled to recover attorney's fees and costs as required by the FLSA. 29 USC § 216(b).

IX. PRAYER

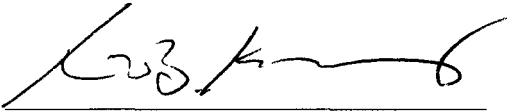
34. For these reasons, Plaintiff respectfully requests judgment to be entered in his favor awarding him and the Class Members:

- A. compensation for all hours worked at their regular rates;
- B. overtime compensation for all unpaid hours worked in excess of forty at the rate of one and one-half times their regular rates;
- C. an equal amount as liquidated damages as allowed under the FLSA;

- D. reasonable attorney's fees, costs and expenses of this action as provided by the FLSA;
- E. pre-judgment and post judgment interest at the highest rates allowed by law; and
- F. such other relief to which Plaintiff may be entitled.

Respectfully submitted,

KENNEDY HODGES, L.L.P.

By: 

Galvin B. Kennedy
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Federal Bar No. 20791
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ATTORNEY IN CHARGE FOR PLAINTIFF

OF COUNSEL:

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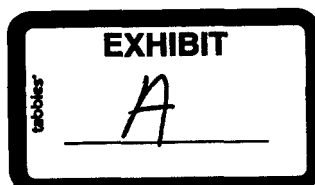
CONSENT FORM

I, Gregorio Lopez, consent and agree to pursue my claims arising out of unpaid overtime work as an employee of Defendant(s) in connection with the lawsuit to which this form is attached. I also agree to file this claim on behalf of all others similarly situated.

Yo, Gregorio Lopez, estoy de acuerdo de ser parte de esta demanda adjunta con esta pagina reclamando pago por horas extras durante el tiempo que era un empleado con los demandado(s). Tambien estoy de acuerdo de archivar este pleito de parte de otros empleados que tienen reclamos parecidos.

Date/Fecha: 4/11/05


GREGORIO LÓPEZ



JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of process or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1978, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Gregorio Lopez, individually and on Behalf
of all others Similarly Situated.

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Kennedy Hodges, L.L.P., 3701 Kirby, Ste 400,
Houston, Texas 77098, 713-523-0001

DEFENDANTS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

05 - 1240

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State ☒ PTF ☒ DEFCitizen of Another State ☐ 2 ☐ 2Citizen or Subject of a Foreign Country ☐ 3 ☐ 3Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Brief description of cause

Overtime claim

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE